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(Original Signature of Member)

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H. R.** \_\_\_\_\_

To amend the African Growth and Opportunity Act relating to preferential treatment to apparel articles of lesser developed countries, and for other purposes.

\_\_\_\_\_  
**IN THE HOUSE OF REPRESENTATIVES**

Mr. THOMAS introduced the following bill; which was referred to the Committee on \_\_\_\_\_

\_\_\_\_\_  
**A BILL**

To amend the African Growth and Opportunity Act relating to preferential treatment to apparel articles of lesser developed countries, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. TABLE OF CONTENTS.**

4 The table of contents of this Act is as follows:

Sec. 1. Table of contents.

TITLE I—AFRICAN GROWTH AND OPPORTUNITY ACT

Sec. 101. Short title.

- Sec. 102. Preferential treatment of apparel products of lesser developed countries.
- Sec. 103. Technical corrections.
- Sec. 104. Sub-Saharan Africa economic activity credit.

TITLE II—GENERALIZED SYSTEM OF PREFERENCES (GSP)  
PROGRAM

- Sec. 201. Limitations on waivers of competitive need limitation.
- Sec. 202. Extension of GSP program.

TITLE III—HAITI

- Sec. 301. Short title.
- Sec. 302. Trade benefits for Haiti.
- Sec. 303. ITC study.
- Sec. 304. Sense of Congress on interpretation of textile and apparel provisions for Haiti.
- Sec. 305. Technical amendments.
- Sec. 306. Effective date.

1 **TITLE I—AFRICAN GROWTH AND**  
2 **OPPORTUNITY ACT**

3 **SEC. 101. SHORT TITLE.**

4 This title may be referred to as the “Africa Invest-  
5 ment Incentive Act of 2006”.

6 **SEC. 102. PREFERENTIAL TREATMENT OF APPAREL PROD-**  
7 **UCTS OF LESSER DEVELOPED COUNTRIES.**

8 (a) IN GENERAL.—Section 112 of the African  
9 Growth and Opportunity Act (19 U.S.C. 3721) is  
10 amended—

11 (1) by redesignating subsections (e) through (e)  
12 as subsections (d) through (f);

13 (2) in subsection (b)—

14 (A) in the matter preceding paragraph (1),  
15 by striking “The” and inserting “Subject to  
16 subsection (c), the” ; and

1 (B) by striking subparagraph (B) and re-  
2 designating subparagraph (C) as subparagraph  
3 (B); and

4 (3) by inserting after subsection (b) the fol-  
5 lowing new subsection:

6 “(c) LESSER DEVELOPED COUNTRIES.—

7 “(1) PREFERENTIAL TREATMENT OF PRODUCTS  
8 THROUGH SEPTEMBER 30, 2008.—

9 “(A) PRODUCTS COVERED.—In addition to  
10 the products described in subsection (b), and  
11 subject to paragraph (4), the preferential treat-  
12 ment described in subsection (a) shall apply  
13 through September 30, 2008, to apparel articles  
14 wholly assembled, or knit-to-shape and wholly  
15 assembled, or both, in one or more lesser devel-  
16 oped beneficiary sub-Saharan African countries,  
17 regardless of the country of origin of the fabric  
18 or the yarn used to make such articles, in an  
19 amount not to exceed the applicable percentage  
20 of the aggregate square meter equivalents of all  
21 apparel articles imported into the United States  
22 in the preceding 12-month period for which  
23 data are available.

1           “(B) APPLICABLE PERCENTAGE.—For  
2 purposes of subparagraph (A), the term ‘appli-  
3 cable percentage’ means—

4           “(i) 2.9285 percent for the 1-year pe-  
5 riod beginning October 1, 2005;

6           “(ii) 3.5 percent for the 1-year period  
7 beginning October 1, 2006; and

8           “(iii) 3.5 percent for the 1-year period  
9 beginning October 1, 2007.

10           “(2) PREFERENTIAL TREATMENT OF PRODUCTS  
11 BEGINNING OCTOBER 1, 2008.—

12           “(A) IN GENERAL.—In addition to the  
13 products described in subsection (b), the pref-  
14 erential treatment described in subsection (a)  
15 shall apply to apparel articles described in sub-  
16 paragraph (B) of a producer or entity control-  
17 ling production that are imported directly from  
18 a lesser developed beneficiary sub-Saharan Afri-  
19 can country during an applicable 1-year period,  
20 subject to the limitations set forth in this sub-  
21 section.

22           “(B) ARTICLES DESCRIBED.—The apparel  
23 articles referred to in subparagraph (A) are ap-  
24 parel articles that are wholly assembled, or are  
25 knit-to-shape, in a lesser developed beneficiary

1 sub-Saharan African country from any com-  
2 bination of fabrics, fabric components, compo-  
3 nents knit-to-shape, and yarns.

4 “(C) RESTRICTIONS IN SECOND THROUGH  
5 SEVENTH APPLICABLE 1-YEAR PERIODS.—The  
6 preferential treatment under subparagraph (A)  
7 applies to apparel articles described in subpara-  
8 graph (B) in each of the second through sev-  
9 enth applicable 1-year periods only if, for each  
10 entry in the preceding applicable 1-year period,  
11 the sum of—

12 “(i) the cost or value of the materials  
13 produced in one or more beneficiary sub-  
14 Saharan African countries or one or more  
15 countries described in subparagraph (E),  
16 or any combination thereof, plus

17 “(ii) the direct costs of processing op-  
18 erations (as defined in section 213(a)(3))  
19 of the Caribbean Basin Economic Recovery  
20 Act performed in one or more beneficiary  
21 developed beneficiary sub-Saharan African  
22 countries or one or more countries de-  
23 scribed in subparagraph (E), or any com-  
24 bination thereof,

1 is not less than the applicable percentage (as  
2 defined in subparagraph (I)) of the declared  
3 customs value of such apparel articles.

4 “(D) DEDUCTIONS.—In calculating cost or  
5 value under subparagraph (C)(i), there shall be  
6 deducted the cost or value of—

7 “(i) any foreign materials that are  
8 used in the production of the apparel arti-  
9 cles in a lesser developed beneficiary sub-  
10 Saharan African country; and

11 “(ii) any foreign materials that are  
12 used in the production of the materials de-  
13 scribed in subparagraph (C)(i).

14 “(E) COUNTRIES DESCRIBED.—The coun-  
15 tries referred to in subparagraph (C) are the  
16 following:

17 “(i) The United States.

18 “(ii) Any country that is a party to a  
19 free trade agreement with the United  
20 States that is in effect on the date of the  
21 enactment of the Africa Investment Incen-  
22 tive Act of 2006, or that enters into force  
23 under the Bipartisan Trade Promotion Au-  
24 thority Act of 2002 (19 U.S.C. 3801 et  
25 seq.).

1           “(iii) Any country designated as a  
2           beneficiary country under section  
3           213(b)(5)(B) of the Caribbean Basin Eco-  
4           nomic Recovery Act.

5           “(iv) Any country designated as a  
6           beneficiary country under section  
7           204(b)(6)(B) of the Andean Trade Pref-  
8           erence Act (19 U.S.C. 3203(b)(6)(B)).

9           “(F) ANNUAL AGGREGATION.—The re-  
10          quirements under subparagraph (C) relating to  
11          applicable percentage may also be met for arti-  
12          cles of a producer or an entity controlling pro-  
13          duction that enter during an applicable 1-year  
14          period by aggregating—

15               “(i) the cost or value of materials  
16               under subparagraph (C)(i), and

17               “(ii) the direct costs of processing op-  
18               erations under subparagraph (C)(ii),

19          of all apparel articles of that producer or entity  
20          controlling production that are wholly assem-  
21          bled, or are knit-to-shape, in a lesser developed  
22          beneficiary sub-Saharan African country and  
23          are entered during that applicable 1-year pe-  
24          riod.

1           “(G) DEDUCTIONS.—In calculating the  
2 cost or value under subparagraph (F)(i), there  
3 shall be deducted the cost or value of—

4           “(i) any foreign materials that are  
5 used in the production of the articles in a  
6 lesser developed beneficiary sub-Saharan  
7 African country; and

8           “(ii) any foreign materials that are  
9 used in the production of the materials de-  
10 scribed in subparagraph (F)(i).

11           “(H) QUANTITATIVE LIMITATIONS.—The  
12 preferential treatment described in this para-  
13 graph shall be extended, during each applicable  
14 1-year period, to not more than 3.5 percent of  
15 the aggregate square meter equivalents of all  
16 apparel articles imported into the United States  
17 in the most recent 12-month period for which  
18 data are available. No preferential treatment  
19 shall be provided under this paragraph after the  
20 last day of the seventh applicable 1-year period.

21           “(I) DEFINITIONS.—In this paragraph:

22           “(i) APPLICABLE 1-YEAR PERIOD.—

23           “(I) IN GENERAL.—The term  
24 ‘applicable 1-year period’ means each

1 of the 1-year periods described in sub-  
2 clauses (I) through (VIII).

3 “(II) INITIAL 1-YEAR PERIOD.—  
4 The term ‘initial 1-year period’ means  
5 the 1-year period beginning October  
6 1, 2008.

7 “(III) SECOND APPLICABLE 1-  
8 YEAR PERIOD.—The term ‘second ap-  
9 plicable 1-year period’ means the 1-  
10 year period beginning October 1,  
11 2009.

12 “(IV) THIRD APPLICABLE 1-YEAR  
13 PERIOD.—The term ‘third applicable  
14 1-year period’ means the 1-year pe-  
15 riod beginning October 1, 2010.

16 “(V) FOURTH APPLICABLE 1-  
17 YEAR PERIOD.—The term ‘fourth ap-  
18 plicable 1-year period’ means the 1-  
19 year period beginning October 1,  
20 2011.

21 “(VI) FIFTH APPLICABLE 1-YEAR  
22 PERIOD.—The term ‘fifth applicable  
23 1-year period’ means the 1-year pe-  
24 riod beginning October 1, 2012.

1                   “(VII) SIXTH APPLICABLE 1-  
2                   YEAR PERIOD.—The term ‘sixth appli-  
3                   cable 1-year period’ means the 1-year  
4                   period beginning October 1, 2013.

5                   “(VIII) SEVENTH APPLICABLE 1-  
6                   YEAR PERIOD.—the term ‘seventh ap-  
7                   plicable 1-year period’ means the 1-  
8                   year period beginning October 1,  
9                   2014.

10                  “(ii) APPLICABLE PERCENTAGE.—The  
11                  term ‘applicable percentage’ means—

12                   “(I) 50 percent or more during  
13                   the initial applicable 1-year period,  
14                   the second applicable 1-year period,  
15                   and the third applicable 1-year period;

16                   “(II) 55 percent or more during  
17                   the fourth applicable 1-year period;  
18                   and

19                   “(III) 60 percent or more during  
20                   the fifth, sixth, and seventh applicable  
21                   1-year periods.

22                  “(3) DEVELOPMENT OF PROCEDURE TO EN-  
23                  SURE COMPLIANCE.—

24                   “(A) IN GENERAL.—The Bureau of Cus-  
25                  toms and Border Protection of the Department

1 of Homeland Security shall, not later than 1  
2 year after the date of enactment of the Africa  
3 Investment Incentive Act of 2006, develop and  
4 implement methods and procedures to ensure  
5 ongoing compliance with the requirements set  
6 forth in paragraph (2).

7 “(B) NONCOMPLIANCE.—If the Bureau of  
8 Customs and Border Protection finds that a  
9 producer or an entity controlling production has  
10 not satisfied the requirements of paragraph (2)  
11 in any applicable 1-year period, then apparel  
12 articles described in paragraph (2)(B) of that  
13 producer or entity shall be ineligible for pref-  
14 erential treatment under paragraph (2) during  
15 any succeeding applicable 1-year period until—

16 “(i) the cost or value of materials  
17 under paragraph (2)(C)(i), plus

18 “(ii) the direct costs of processing op-  
19 erations under paragraph (2)(C)(ii),

20 of that producer or entity controlling produc-  
21 tion, is not less than the applicable percentage  
22 that would otherwise apply under paragraph  
23 (2)(C), plus 10 percent, of the aggregate de-  
24 clared customs value of all apparel articles of  
25 that producer or entity controlling production

1 that are wholly assembled, or are knit-to-shape,  
2 in a sub-Saharan African country and are en-  
3 tered during the preceding applicable 1-year pe-  
4 riod.

5 “(C) RETROACTIVE APPLICATION OF  
6 DUTY-FREE TREATMENT.—

7 “(i) IN GENERAL.—If—

8 “(I) a producer or an entity con-  
9 trolling production is ineligible for  
10 preferential treatment under para-  
11 graph (2) in an applicable 1-year pe-  
12 riod because that producer or entity  
13 controlling production did not satisfy  
14 the requirements of paragraph (2)(C)  
15 or (2)(F), and

16 “(II) that producer or entity con-  
17 trolling production satisfies the re-  
18 quirements of subparagraph (B) of  
19 this paragraph in that applicable 1-  
20 year period,

21 then, notwithstanding section 514 of the  
22 Tariff Act of 1930 (19 U.S.C. 1514) or  
23 any other provision on law, upon proper  
24 request filed with the Bureau of Customs  
25 and Border Protection before the 90th day

1 after the Bureau of Customs and Border  
2 Protection determines that subclause (II)  
3 applies, any entry described in clause (ii)  
4 shall be liquidated or reliquidated as  
5 though such preferential treatment applied  
6 to such entry.

7 “(ii) ENTRIES.—An entry is described  
8 in this clause if it is an entry of any  
9 articles—

10 “(I) that was made during the  
11 applicable 1-year period referred to in  
12 clause (i)(I); and

13 “(II) with respect to which there  
14 would have been preferential treat-  
15 ment under paragraph (2) if the pro-  
16 ducer or entity controlling production  
17 had satisfied the requirements of  
18 paragraph (2)(C) or (2)(F) (as the  
19 case may be).

20 “(D) FABRICS NOT AVAILABLE IN COM-  
21 Mercial quantities.—For purposes of deter-  
22 mining the applicable percentage under para-  
23 graph (2)(C) or (2)(F), there may be included  
24 in that percentage—

1           “(i) the cost of fabrics or yarns to the  
2 extent that apparel articles of such fabrics  
3 or yarns would be eligible for preferential  
4 treatment, without regard to the source of  
5 the fabrics or yarns, under Annex 401 of  
6 the NAFTA; and

7           “(ii) the cost of fabrics or yarns that  
8 are designated as not being available in  
9 commercial quantities for purposes of—

10                   “(I) section 213(b)(2)(A)(v) of  
11 the Caribbean Basin Economic Recov-  
12 ery Act,

13                   “(II) paragraph (5) of this sub-  
14 section,

15                   “(III)                                   section  
16 204(b)(3)(B)(i)(III) or (ii) of the An-  
17 dean Trade Preference Act, or

18                   “(IV) any other provision, relat-  
19 ing to determining whether a textile  
20 or apparel article is an originating  
21 good eligible for preferential treat-  
22 ment, of a law that implements a free  
23 trade agreement that enters into force  
24 under the Bipartisan Trade Pro-  
25 motion Authority Act of 2002,

1 without regard to the source of the fabrics  
2 or yarns.

3 “(4) SPECIAL RULES FOR PRODUCTS IN COM-  
4 MERCIAL QUANTITIES IN AFRICA.—

5 “(A) PETITION PROCESS.—Upon a petition  
6 filed by an interested party (which may include  
7 a foreign manufacturer), the Commission shall  
8 determine whether a fabric or yarn produced in  
9 beneficiary sub-Saharan African countries is  
10 available in commercial quantities for use by  
11 lesser developed beneficiary sub-Saharan Afri-  
12 can countries.

13 “(B) EFFECT OF AFFIRMATIVE DETER-  
14 MINATION.—

15 “(i) DETERMINATION OF QUANTITY  
16 AVAILABLE.—If the Commission deter-  
17 mines under subparagraph (A) that a fab-  
18 ric or yarn produced in beneficiary sub-Sa-  
19 haran African countries is available in  
20 commercial quantities for use by lesser de-  
21 veloped beneficiary sub-Saharan African  
22 countries, the Commission shall determine  
23 the quantity of the fabric or yarn that will  
24 be so available in lesser developed bene-  
25 ficiary sub-Saharan African countries in

1 the applicable 1-year period (as defined in  
2 paragraph (2)(H)) beginning after the de-  
3 termination is made.

4 “(ii) DETERMINATIONS.—In each case  
5 in which the Commission determines that a  
6 fabric or yarn is available in commercial  
7 quantities under subparagraph (A) for an  
8 applicable 1-year period, the Commission  
9 shall determine, before the end of that ap-  
10 plicable 1-year period—

11 “(I) whether the fabric or yarn  
12 produced in beneficiary sub-Saharan  
13 African countries will be available in  
14 commercial quantities in the suc-  
15 ceeding applicable 1-year period; and

16 “(II) if so, the quantity of the  
17 fabric or yarn that will be so available  
18 in that succeeding 1-year period, sub-  
19 ject to clause (iii).

20 “(iii) DETERMINATION REGARDING  
21 IMPORTED ARTICLES.—After the end of  
22 each applicable 1-year period for which a  
23 determination under clause (i) is in effect,  
24 the Commission shall determine to what  
25 extent the quantity of the fabric or yarn

1 determined under clause (i) to be available  
2 in commercial quantities for use by lesser  
3 developed beneficiary sub-Saharan African  
4 countries was used in the production of ap-  
5 parel articles receiving preferential treat-  
6 ment under paragraph (1) or (2) that were  
7 entered in that applicable 1-year period.  
8 To the extent that the quantity so deter-  
9 mined was not so used, then the Commis-  
10 sion shall add to the quantity of that fabric  
11 or yarn determined to be available in the  
12 next applicable 1-year period the quantity  
13 not so used in the preceding applicable 1-  
14 year period.

15 “(C) DENIM.—Denim articles provided for  
16 in subheading 5209.42.00 of the Harmonized  
17 Tariff Schedule of the United States shall be  
18 deemed to have been determined to be in abun-  
19 dant supply under subparagraph (A) in an  
20 amount of 30,000,000 square meter equivalents  
21 for the 1-year period beginning October 1,  
22 2006.

23 “(D) PRESIDENTIAL AUTHORITY TO RE-  
24 STRICT IMPORTS.—

1           “(i) IN GENERAL.—Subject to clause  
2           (ii), the President may by proclamation  
3           provide that apparel articles otherwise eli-  
4           gible for preferential treatment under  
5           paragraph (1) or (2) that contain a fabric  
6           or yarn determined to be available in com-  
7           mercial quantities under subparagraph (A)  
8           may not receive such preferential treat-  
9           ment in an applicable 1-year period  
10          unless—

11                   “(I) the fabric or yarn in such  
12                   articles was produced in 1 or more  
13                   beneficiary sub-Saharan African coun-  
14                   tries; or

15                   “(II) the Commission has deter-  
16                   mined that the quantity of the fabric  
17                   or yarn determined under subpara-  
18                   graph (B) (or (C), as the case may  
19                   be) to be available in lesser developed  
20                   beneficiary sub-Saharan African coun-  
21                   tries for that applicable 1-year period  
22                   has already been used in the produc-  
23                   tion of apparel articles receiving pref-  
24                   erential treatment under paragraph

1 (1) or (2) that were entered in that  
2 applicable 1-year period.

3 “(ii) MANDATORY RESTRICTION.—If a  
4 fabric or yarn is determined to be available  
5 in commercial quantities under subpara-  
6 graph (A) in an applicable 1-year period,  
7 and for 2 consecutive applicable 1-year pe-  
8 riods the quantities determined to be so  
9 available are not used in the production of  
10 apparel articles receiving preferential treat-  
11 ment under paragraph (1) or (2) that were  
12 entered during those 2 applicable 1-year  
13 periods, then beginning in the succeeding  
14 applicable 1-year period, apparel articles  
15 containing that fabric or yarn are ineligible  
16 for preferential treatment under paragraph  
17 (1) or (2) in any succeeding applicable 1-  
18 year period unless the Commission has de-  
19 termined that the quantity of the fabric or  
20 yarn determined under subparagraph (B)  
21 (or (C), as the case may be) to be available  
22 in lesser developed beneficiary sub-Saharan  
23 African countries for that applicable 1-year  
24 period has already been used in the pro-  
25 duction of apparel articles receiving pref-

1                    preferential treatment under paragraph (1) or  
2                    (2) that were entered in that applicable 1-  
3                    year period.

4                    “(E) PROCEDURES.—The Commission  
5                    shall use the procedures prescribed in sub-  
6                    section (b)(3)(C)(iv) for the Secretary of Com-  
7                    merce in making determinations under this  
8                    paragraph.

9                    “(5) REMOVAL OF DESIGNATION OF FABRICS  
10                    OR YARNS NOT AVAILABLE IN COMMERCIAL QUAN-  
11                    TITIES.—If the President determines that—

12                    “(A) any fabric or yarn described in para-  
13                    graph (4)(A) was determined to be eligible for  
14                    preferential treatment, or

15                    “(B) any fabric or yarn described in para-  
16                    graph (4)(B) was designated as not being avail-  
17                    able in commercial quantities,

18                    on the basis of fraud, the President may remove the  
19                    eligibility or designation (as the case may be) of that  
20                    fabric or yarn with respect to articles entered after  
21                    such removal.

22                    “(6) APPLICABILITY OF OTHER PROVISIONS.—  
23                    Subsection (b)(3)(C) applies to apparel articles eligi-  
24                    ble for preferential treatment under this subsection  
25                    to the same extent as that subsection applies to ap-

1       parel articles eligible for preferential treatment  
2       under subsection (b)(3).

3               “(7) DEFINITIONS.—In this subsection:

4                       “(A) COMMISSION.—The term ‘Commis-  
5                       sion’ means the United States International  
6                       Trade Commission.

7                       “(B) ENTER; ENTRY.—The terms ‘enter’  
8                       and ‘entry’ refer to the entry, or withdrawal  
9                       from warehouse for consumption, in the cus-  
10                      toms territory of the United States.

11                     “(C) FOREIGN MATERIAL.—The term ‘for-  
12                     eign material’ means a material produced in a  
13                     country other than a sub-Saharan African  
14                     country or a country described in paragraph  
15                     (2)(E).

16                     “(D) LESSER DEVELOPED BENEFICIARY  
17                     SUB-SAHARAN AFRICAN COUNTRY.—The term  
18                     ‘lesser developed beneficiary sub-Saharan Afri-  
19                     can country’ means—

20                               “(i) a beneficiary sub-Saharan African  
21                               country that had a per capita gross na-  
22                               tional product of less than \$1,500 in 1998,  
23                               as measured by the International Bank for  
24                               Reconstruction and Development;

25                               “(ii) Botswana; and

1 “(iii) Namibia.”.

2 (b) ADDITIONAL PREFERENTIAL TREATMENT.—Sec-  
3 tion 112(b) of the African Growth and Opportunity Act  
4 (19 U.S.C. 3721(b)) is amended by adding at the end the  
5 following new paragraph:

6 “(8) TEXTILE ARTICLES ORIGINATING EN-  
7 TIRELY IN ONE OR MORE LESSER DEVELOPED BEN-  
8 EFICIARY SUB-SAHARAN AFRICAN COUNTRIES.—Tex-  
9 tile articles, other than apparel articles, that are  
10 wholly assembled, or are knit-to-shape, in one or  
11 more lesser developed beneficiary sub-Saharan Afri-  
12 can countries, from fabrics, fabric components, com-  
13 ponents knit-to-shape, and yarns originating entirely  
14 in one or more lesser developed beneficiary sub-Sa-  
15 haran African countries.”.

16 (c) TECHNICAL AMENDMENT.—Section 112(e)(3) of  
17 the African Growth and Opportunity Act (as redesignated  
18 by subsection (a)(1) of this section) is amended by striking  
19 “subsection (b)” and inserting “subsections (b) and (c)”.

20 **SEC. 103. TECHNICAL CORRECTIONS.**

21 Section 112 of the African Growth and Opportunity  
22 Act (19 U.S.C. 3721) is amended as follows:

23 (1) Subsection (b)(5) is amended by adding at  
24 the end the following new subparagraph:

1           “(C) REMOVAL OF DESIGNATION OF FAB-  
2           RICS OR YARNS NOT AVAILABLE IN COMMER-  
3           CIAL QUANTITIES.—If the President determines  
4           that any fabric or yarn was determined to be el-  
5           igible for preferential treatment under subpara-  
6           graph (A) on the basis of fraud, the President  
7           is authorized to remove that designation from  
8           that fabric or yarn with respect to articles en-  
9           tered after such removal.”.

10           (2) Subsection (e) is amended by adding at the  
11           end the following:

12           “(4) ENTER; ENTERED.—The terms ‘enter’ and  
13           ‘entered’ refer to the entry, or withdrawal from  
14           warehouse for consumption, in the customs territory  
15           of the United States.”.

16           (3) Subsection (f) is amended by striking  
17           “2008” and inserting “2015”.

18 **SEC. 104. SUB-SAHARAN AFRICA ECONOMIC ACTIVITY**

19           **CREDIT.**

20           (a) IN GENERAL.—Subpart B of part IV of sub-  
21           chapter A of chapter 1 of the Internal Revenue Code of  
22           1986 (relating to other credits) is amended by adding at  
23           the end the following new section:

1 **“SEC. 30D. SUB-SAHARAN AFRICA ECONOMIC ACTIVITY**  
2 **CREDIT.**

3 “(a) ALLOWANCE OF CREDIT.—Except as otherwise  
4 provided in this section, if a domestic corporation elects  
5 the application of this section, there shall be allowed as  
6 a credit against the tax imposed by this chapter the  
7 amount determined under subsection (b).

8 “(b) AMOUNT OF CREDIT.—The amount determined  
9 under this subsection is the excess of—

10 “(1) the product of the highest rate of tax spec-  
11 ified in section 11(b) multiplied by the taxable in-  
12 come (determined without regard to any deduction  
13 for the taxes described in paragraph (2)), from  
14 sources without the United States, from the active  
15 conduct of a qualified trade or business within sub-  
16 Saharan Africa, over

17 “(2) the aggregate taxes described in section  
18 901(b)(1) which are paid or accrued with respect to  
19 such income.

20 “(c) LIMITATION TO TAX ATTRIBUTABLE TO FOR-  
21 EIGN SOURCE INCOME.—

22 “(1) IN GENERAL.—The amount determined  
23 under subsection (b) for any taxable year shall not  
24 exceed the excess of—

25 “(A) the amount which bears the same  
26 ratio to the tax against which such credit is

1 taken which the taxpayer's taxable income from  
2 sources without the United States (but not in  
3 excess of the taxpayer's entire taxable income)  
4 bears to the taxpayer's entire taxable income  
5 for the same taxable year, over

6 "(B) the sum of the credits allowed under  
7 section 901, 30A, and 936 for the taxable year.

8 "(2) ALLOCABLE SHARE OF SPECIFIED ITEMS  
9 TAKEN INTO ACCOUNT.—In the case of a taxpayer  
10 whose specified items are increased under subsection  
11 (f), paragraph (1) shall be applied—

12 "(A) by treating the taxpayer's aggregate  
13 allocable share of the taxable income referred to  
14 in subsection (f)(2)(A) as taxable income of the  
15 taxpayer from sources without the United  
16 States, and

17 "(B) by increasing the amount described in  
18 paragraph (1)(B) by the taxpayer's aggregate  
19 allocable share of taxes referred to in subsection  
20 (f)(2)(B).

21 "(d) LIMITATIONS ON CREDIT FOR ACTIVE BUSI-  
22 NESS INCOME.—The amount determined under subsection  
23 (b) for any taxable year shall not exceed the sum of the  
24 following amounts:

25 "(1) 60 percent of the sum of—

1           “(A) the aggregate amount of the domestic  
2 corporation’s qualified Africa wages for such  
3 taxable year, plus

4           “(B) the allocable qualified employee fringe  
5 benefit expenses of the domestic corporation for  
6 such taxable year.

7           “(2) The sum of—

8           “(A) 15 percent of the depreciation allow-  
9 ances for the taxable year with respect to short-  
10 life qualified tangible property,

11           “(B) 40 percent of the depreciation allow-  
12 ances for the taxable year with respect to me-  
13 dium-life qualified tangible property, and

14           “(C) 65 percent of the depreciation allow-  
15 ances for the taxable year with respect to long-  
16 life qualified tangible property.

17           “(e) DEFINITIONS.—For purposes of this section—

18           “(1) QUALIFIED TRADE OR BUSINESS.—The  
19 term ‘qualified trade or business’ means any trade  
20 or business other than—

21           “(A) the trade or business of mining (as  
22 defined in section 613(c)(2)), and

23           “(B) the trade or business of exploring for,  
24 developing, producing, refining, transporting, or

1 selling crude oil or natural gas, or any product  
2 thereof.

3 “(2) QUALIFIED AFRICA WAGES.—

4 “(A) IN GENERAL.—The term ‘qualified  
5 Africa wages’ means, with respect to any tax-  
6 able year, the excess of—

7 “(i) the sum of the wages which are  
8 paid or incurred during such taxable year  
9 in connection with the active conduct of a  
10 qualified trade or business within sub-Sa-  
11 haran Africa to any employee for services  
12 performed in sub-Saharan Africa, but only  
13 if such services are performed while the  
14 principal place of employment of such em-  
15 ployee is within sub-Saharan Africa, over

16 “(ii) the sum of wages (if any) paid or  
17 incurred during the last taxable year end-  
18 ing before the date of the enactment of  
19 this section in connection with the active  
20 conduct of a qualified trade or business  
21 within sub-Saharan Africa (determined as  
22 of the first day of the taxable year referred  
23 to in clause (i)) to any employee for serv-  
24 ices performed in sub-Saharan Africa (as  
25 so determined), but only if such services

1           are performed while the principal place of  
2           employment of such employee is within  
3           sub-Saharan Africa (as so determined).

4           “(B) APPLICABLE RULES FOR DETER-  
5           MINING WAGES.—For purposes of subparagraph  
6           (A), rules similar to the rules of subparagraphs  
7           (B), (C), and (D) of section 936(i)(1) shall  
8           apply.

9           “(3) QUALIFIED EMPLOYEE FRINGE BENEFIT  
10          EXPENSES.—

11           “(A) IN GENERAL.—The term ‘qualified  
12           employee fringe benefit expense’ means, with  
13           respect to any taxable year, the excess of—

14           “(i) the sum of the employee fringe  
15           benefit expenses which are paid or incurred  
16           during such taxable year in connection  
17           with the active conduct of a qualified trade  
18           or business within sub-Saharan Africa to  
19           or for the benefit of any employee for serv-  
20           ices performed in sub-Saharan Africa, but  
21           only if such services are performed while  
22           the principal place of employment of such  
23           employee is within sub-Saharan Africa,  
24           over

1                   “(ii) the sum of the employee fringe  
2                   benefit expenses paid or incurred during  
3                   the last taxable year ending before the date  
4                   of the enactment of this section in connec-  
5                   tion with the active conduct of a qualified  
6                   trade or business within sub-Saharan Afri-  
7                   ca (determined as of the first day of the  
8                   taxable year referred to in clause (i)) to or  
9                   for the benefit of any employee for services  
10                  performed in sub-Saharan Africa (as so de-  
11                  termined), but only if such services are  
12                  performed while the principal place of em-  
13                  ployment of such employee is within sub-  
14                  Saharan Africa (as so determined).

15                  “(B) EMPLOYEE FRINGE BENEFIT EX-  
16                  PENSES.—The term ‘employee fringe benefit ex-  
17                  penses’ means with respect to any taxable year  
18                  the expenses described in section 936(i)(2)(B).

19                  “(4) DEFINITIONS RELATED TO DEPRECI-  
20                  TION.—

21                  “(A) DEPRECIATION ALLOWANCES.—The  
22                  term ‘depreciation allowances’ means the depre-  
23                  ciation deductions allowable under section 167  
24                  to the taxpayer.

1           “(B) QUALIFIED TANGIBLE PROPERTY.—

2           The term ‘qualified tangible property’ means  
3           any tangible property—

4                   “(i) substantially all of the use of  
5                   which is in sub-Saharan Africa in the ac-  
6                   tive conduct of a qualified trade or busi-  
7                   ness by the taxpayer in sub-Saharan Afri-  
8                   ca,

9                   “(ii) the original use of which in sub-  
10                  Saharan Africa commences with the tax-  
11                  payer after September 21, 2006, and

12                  “(iii) which is acquired by the tax-  
13                  payer by purchase (as defined in section  
14                  179(d)) after September 21, 2006, but  
15                  only if no written binding contract for the  
16                  acquisition was in effect on or before such  
17                  date.

18           Such term shall not include any vessel or air-  
19           craft, including any container used in connec-  
20           tion with any such vessel or aircraft, within the  
21           meaning of section 863(c)(3).

22           “(C) SHORT-, MEDIUM-, AND LONG-LIFE  
23           QUALIFIED TANGIBLE PROPERTY.—The terms  
24           ‘short-life qualified tangible property’, ‘medium-  
25           life qualified tangible property’, and ‘long-life

1 qualified tangible property’ shall have the same  
2 meaning given such terms, respectively, by sec-  
3 tion 936(i)(4)(B), except that in applying such  
4 section the term ‘qualified tangible property’  
5 shall have the meaning given such term by sub-  
6 paragraph (B).

7 “(5) SUB-SAHARAN AFRICA.—The term ‘sub-  
8 Saharan Africa’ means, with respect to any taxable  
9 year, the region comprised of countries for which  
10 there is in effect on the first day of such taxable  
11 year a designation as an eligible sub-Saharan Africa  
12 country under section 104 of the African Growth  
13 and Opportunity Act (19 U.S.C. 3703).

14 “(f) ALLOCATION OF ITEMS FROM CONTROLLED  
15 FOREIGN CORPORATIONS TO UNITED STATES SHARE-  
16 HOLDERS.—

17 “(1) IN GENERAL.—For purposes of this sec-  
18 tion, in the case of a domestic corporation which  
19 elects the application of this section, each of the do-  
20 mestic corporation’s specified items shall be in-  
21 creased by such corporation’s allocable share of each  
22 such specified item of each controlled foreign cor-  
23 poration with respect to which such domestic cor-  
24 poration is a United States shareholder (as defined  
25 in section 951(b)).

1           “(2) SPECIFIED ITEMS.—For purposes of this  
2 subsection, the term ‘specified items’ means—

3           “(A) the taxable income taken into account  
4 under subsection (b)(1),

5           “(B) the taxes taken into account under  
6 subsection (b)(2),

7           “(C) the wages taken into account under  
8 clauses (i) and (ii) of subsection (e)(2)(A),

9           “(D) the expenses taken into account  
10 under clauses (i) and (ii) of subsection  
11 (e)(3)(A), and

12           “(E) the depreciation allowances with re-  
13 spect to each class of property under subpara-  
14 graphs (A), (B), and (C) of subsection (d)(2).

15 For purposes of determining any specified item of a  
16 controlled foreign corporation under this subsection,  
17 such corporation shall be treated as a domestic cor-  
18 poration electing the application of this section. For  
19 purposes of this paragraph, taxes do not include any  
20 withholding tax paid to a foreign government with  
21 respect to payments by the controlled foreign cor-  
22 poration to its shareholders.

23           “(3) ALLOCABLE SHARE.—For purposes of this  
24 subsection, the term ‘allocable share’ means, with re-  
25 spect to any item of a controlled foreign corporation

1       which is owned by any United States shareholder (as  
2       defined in section 951(b)), the percentage of total  
3       combined voting power of all classes of stock entitled  
4       to vote of such foreign corporation which is owned  
5       by such United States shareholder (within the mean-  
6       ing of section 958(a)), or is considered as owned by  
7       such United States shareholder by applying the rules  
8       of ownership of section 958(b). For purposes of the  
9       preceding sentence, section 958(b) shall be applied  
10      in the same manner as in determining whether a  
11      United States person is a United States shareholder  
12      within the meaning of section 951(b).

13           “(4) DIVIDENDS FROM SUB-SAHARAN AFRICA  
14      BUSINESS ACTIVITY.—Dividends from a controlled  
15      foreign corporation and amounts included in gross  
16      income under section 951(a) (and any taxes associ-  
17      ated with such dividends or amounts under section  
18      902 or 960) shall not be taken into account in deter-  
19      mining the taxable income or taxes which are taken  
20      into account under subsections (b) and (c) to the ex-  
21      tent such dividends or amounts are attributable to  
22      income described in paragraph (2)(A) and taken into  
23      account under paragraph (1).

24           “(g) CARRYFORWARD.—If the limitation under sub-  
25      section (d) for any taxable year exceeds the credit allowed

1 under subsection (a) for such taxable year, such excess  
2 shall be carried to the succeeding taxable year and added  
3 to the limitation under subsection (d) for such succeeding  
4 taxable year. No limitation may be carried forward under  
5 this subsection to any taxable year following the tenth tax-  
6 able year after the taxable year in which the limitation  
7 arose. For purposes of the preceding sentence, limitations  
8 shall be treated as used on a first-in first-out basis.

9 “(h) CREDIT NOT ALLOWED AGAINST CERTAIN  
10 TAXES.—The credit provided by subsection (a) shall not  
11 be allowed against the tax imposed by—

12 “(1) section 59A (relating to environmental  
13 tax),

14 “(2) section 531 (relating to the tax on accu-  
15 mulated earnings),

16 “(3) section 541 (relating to personal holding  
17 company tax), or

18 “(4) section 1351 (relating to recoveries of for-  
19 eign expropriation losses).

20 “(i) ADMINISTRATIVE PROVISIONS.—For purposes of  
21 this title—

22 “(1) rules similar to the rules of subsections  
23 (b), (g), and (h) of section 936 shall apply in the  
24 same manner as if the credit under this section were

1 a credit under section 936(a)(1)(A) for a domestic  
2 corporation to which section 936(a)(4)(A) applies,

3 “(2) the credit under this section shall be treat-  
4 ed in the same manner as the credit under section  
5 936 (other than for purposes of subsection (e)), and

6 “(3) a corporation to which this section applies  
7 shall be treated in the same manner as if it were a  
8 corporation electing the application of section 936.

9 “(j) AGGREGATION RULE FOR WAGES AND FRINGE  
10 BENEFITS.—

11 “(1) IN GENERAL.—All members of an ex-  
12 panded affiliated group shall be treated as a single  
13 corporation for purposes paragraphs (2) and (3) of  
14 subsection (e).

15 “(2) EXPANDED AFFILIATED GROUP.—For pur-  
16 poses of paragraph (1), the term ‘expanded affiliated  
17 group’ means an affiliated group as defined in sec-  
18 tion 1504(a), determined—

19 “(A) by substituting ‘more than 50 per-  
20 cent’ for ‘at least 80 percent’ each place it ap-  
21 pears, and

22 “(B) without regard to paragraphs (2) and  
23 (4) of section 1504(b).

24 “(k) ELECTION.—The election provided in subsection  
25 (a) shall be made at such time and in such manner as

1 the Secretary may by regulations prescribe. Any such elec-  
2 tion shall apply for the taxable year for which made and  
3 for each succeeding taxable year. Such election may be re-  
4 voked only with the consent of the Secretary.

5 “(1) REGULATIONS.—The Secretary shall prescribe  
6 regulations to carry out this section, including  
7 regulations—

8 “(1) for determining the credit under this sec-  
9 tion for when a country is designated under section  
10 104 of the African Growth and Opportunity Act as  
11 an eligible sub-Saharan Africa country on a day  
12 other than the first day of the taxable year or if  
13 such designation is terminated during the taxable  
14 year,

15 “(2) for determining the allocable share of spec-  
16 ified items (as defined in subsection (f)) of a part-  
17 nership in the case of a domestic corporation or a  
18 controlled foreign corporation in which such domes-  
19 tic corporation is a United States shareholder, or a  
20 lower tier entity of either such corporation, which is  
21 a partner in such partnership, and

22 “(3) to prevent the abuse of this section.

23 “(m) TERMINATION.—No credit shall be allowed  
24 under this section with respect to any taxable year begin-  
25 ning after December 31, 2015.”

1 (b) CONFORMING AMENDMENTS.—

2 (1) The first sentence of section 55(c)(1) of  
3 such Code is amended by striking “27(b), and” and  
4 inserting “27(b),” and by inserting before the period  
5 at the end the following: “, and the Sub-Saharan Af-  
6 rica economic activity credit under section 30D”.

7 (2) Section 56(g)(4)(C)(ii)(I) of such Code is  
8 amended by inserting “30D,” after “30A,”.

9 (3) Section 56(g)(4)(C)(iii)(VI) of such Code is  
10 amended by inserting before the period at the end  
11 “and, notwithstanding section 30D(i), shall not be  
12 treated as including references to section 30D”.

13 (4) Section 59(b) of such Code is amended by  
14 inserting “, 30D,” after “30A” each place it appears  
15 in the heading and text.

16 (5) The table of sections for subpart B of part  
17 IV of subchapter A of chapter 1 of such Code (relat-  
18 ing to other credits) is amended by adding at the  
19 end the following new item:

“Sec. 30D. Sub-Saharan Africa economic activity credit.”.

20 (c) EFFECTIVE DATE.—The amendments made by  
21 this section shall apply to taxable years beginning after  
22 the date of the enactment of this Act.

1 **TITLE II—GENERALIZED SYSTEM**  
2 **OF PREFERENCES (GSP) PRO-**  
3 **GRAM**

4 **SEC. 201. LIMITATIONS ON WAIVERS OF COMPETITIVE**  
5 **NEED LIMITATION.**

6 Section 503(d)(4)(B) of the Trade Act of 1974 (19  
7 U.S.C. 2463(d)(4)(B)) is amended—

8 (1) by striking “The President” and inserting  
9 “(i) The President”;

10 (2) by striking “(i) had” and inserting “(I  
11 had” and by striking “(ii) had” and inserting “(II  
12 had”;

13 (3) by adding at the end the following new  
14 clauses:

15 “(ii) Beginning on January 1, 2007, the  
16 President may not exercise the waiver authority  
17 provided under this subsection with respect to  
18 a quantity of an eligible article of a beneficiary  
19 developing country entered during any calendar  
20 year if the President determines that the aggre-  
21 gate appraised value of the article of the coun-  
22 try that entered duty-free under this title dur-  
23 ing the preceding calendar year exceeded  
24 \$1,500,000,000.



1           “(A) IN GENERAL.—The term “applicable  
2           1-year period” means each of the 1-year periods  
3           described in subparagraphs (B) through (F).

4           “(B) INITIAL APPLICABLE 1-YEAR PE-  
5           RIOD.—The term ‘initial applicable 1-year pe-  
6           riod’ means the 1-year period beginning on the  
7           date of the enactment of the Haitian Hemi-  
8           spheric Opportunity through Partnership En-  
9           couragement Act of 2006.

10          “(C) SECOND APPLICABLE 1-YEAR PE-  
11          RIOD.—The term ‘second applicable 1-year pe-  
12          riod’ means the 1-year period beginning on the  
13          day after the last day of the initial applicable  
14          1-year period.

15          “(D) THIRD APPLICABLE 1-YEAR PE-  
16          RIOD.—The term ‘third applicable 1-year pe-  
17          riod’ means the 1-year period beginning on the  
18          day after the last day of the second applicable  
19          1-year period.

20          “(E) FOURTH APPLICABLE 1-YEAR PE-  
21          RIOD.—The term ‘fourth applicable 1-year pe-  
22          riod’ means the 1-year period beginning on the  
23          day after the last day of the third applicable 1-  
24          year period.

1           “(F) FIFTH APPLICABLE 1-YEAR PE-  
2           RIOD.—The term ‘fifth applicable 1-year period’  
3           means the 1-year period beginning on the day  
4           after the last day of the fourth applicable 1-  
5           year period.

6           “(2) ENTER; ENTRY.—The terms ‘enter’ and  
7           ‘entry’ refer to the entry, or withdrawal from ware-  
8           house for consumption, in the customs territory of  
9           the United States.

10          “(b) APPAREL ARTICLES.—

11           “(1) IN GENERAL.—In addition to any other  
12           preferential treatment under this title, apparel arti-  
13           cles described in paragraph (2) of a producer or en-  
14           tity controlling production that are imported directly  
15           from Haiti shall enter the United States free of duty  
16           during an applicable 1-year period, subject to the  
17           limitations set forth in paragraphs (2) and (3), if  
18           Haiti has met the requirements of subsections (d)  
19           and (e).

20          “(2) APPAREL ARTICLES DESCRIBED.—

21           “(A) FOR INITIAL APPLICABLE 1-YEAR PE-  
22           RIOD.—Apparel articles described in this para-  
23           graph are apparel articles that are wholly as-  
24           sembled, or are knit-to-shape, in Haiti from any  
25           combination of fabrics, fabric components, com-

1           ponents knit-to-shape, and yarns, that are en-  
2           tered during the initial applicable 1-year period.

3           “(B) FOR OTHER APPLICABLE 1-YEAR PE-  
4           RIODS.—

5           “(i) IN GENERAL.—In each of the sec-  
6           ond, third, fourth, and fifth applicable 1-  
7           year periods, apparel articles described in  
8           this paragraph are apparel articles that are  
9           wholly assembled, or are knit-to-shape, in  
10          Haiti from any combination of fabrics, fab-  
11          ric components, components knit-to-shape,  
12          and yarns, only if, for each entry in the  
13          preceding applicable 1-year period, the sum  
14          of—

15                 “(I) the cost or value of the ma-  
16                 terials produced in Haiti or one or  
17                 more countries described in subpara-  
18                 graph (C), or any combination there-  
19                 of, plus

20                 “(II) the direct costs of proc-  
21                 essing operations (as defined in sec-  
22                 tion 213(a)(3)) performed in Haiti or  
23                 one or more countries described in  
24                 subparagraph (C), or any combination  
25                 thereof,

1 is not less than the applicable percentage  
2 (as defined in subparagraph (E)(i)) of the  
3 declared customs value of such apparel ar-  
4 ticles.

5 “(ii) DEDUCTIONS.—In calculating  
6 cost or value under clause (i)(I), there  
7 shall be deducted the cost or value of—

8 “(I) any foreign materials that  
9 are used in the production of the ap-  
10 parel articles in Haiti; and

11 “(II) any foreign materials that  
12 are used in the production of the ma-  
13 terials described in clause (i)(I).

14 “(C) COUNTRIES DESCRIBED.—The coun-  
15 tries referred to in subparagraph (B) are the  
16 following:

17 “(i) The United States.

18 “(ii) Any country that is a party to a  
19 free trade agreement with the United  
20 States that is in effect on the date of the  
21 enactment of the Haitian Hemispheric Op-  
22 portunity through Partnership Encourage-  
23 ment Act of 2006, or that enters into force  
24 under the Bipartisan Trade Promotion Au-

1           thority Act of 2002 (19 U.S.C. 3801 et  
2           seq.).

3           “(iii) Any country designated as a  
4           beneficiary country under section  
5           213(b)(5)(B) of this Act.

6           “(iv) Any country designated as a  
7           beneficiary country under section  
8           506A(a)(1) of the Trade Act of 1974 (19  
9           U.S.C. 2466a(a)(1)), if a finding has been  
10          made by the President or the President’s  
11          designee, and published in the Federal  
12          Register, that the country has satisfied the  
13          requirements of section 113 of the African  
14          Growth and Opportunity Act (19 U.S.C.  
15          3722).

16          “(v) Any country designated as a ben-  
17          eficiary country under section  
18          204(b)(6)(B) of the Andean Trade Pref-  
19          erence Act (19 U.S.C. 3203(b)(6)(B)).

20          “(D) ANNUAL AGGREGATION.—

21                 “(i) AGGREGATION.—The require-  
22                 ments under subparagraph (B) relating to  
23                 applicable percentage may also be met for  
24                 articles of a producer or an entity control-

1 ling production that enter during an appli-  
2 cable 1-year period by aggregating—

3 “(I) the cost or value of mate-  
4 rials under clause (i)(I) of subpara-  
5 graph (B), and

6 “(II) the direct costs of proc-  
7 essing operations under clause (i)(II)  
8 of subparagraph (B),

9 of all apparel articles of that producer or  
10 entity controlling production that are whol-  
11 ly assembled, or are knit-to-shape, in Haiti  
12 and are entered during that applicable 1-  
13 year period.

14 “(ii) DEDUCTIONS.—In calculating  
15 cost or value under clause (i)(I), there  
16 shall be deducted the cost or value of—

17 “(I) any foreign materials that  
18 are used in the production of the ap-  
19 parel articles in Haiti; and

20 “(II) any foreign materials that  
21 are used in the production of the ma-  
22 terials described in clause (i)(I).

23 “(iii) INCLUSION IN CALCULATION OF  
24 OTHER ARTICLES RECEIVING PREF-  
25 ERENTIAL TREATMENT.—(I) The entry of

1 a woven apparel article receiving pref-  
2 erential treatment under paragraph (4) is  
3 not included in an annual aggregation  
4 under clause (i).

5 “(II) Entries of articles receiving pref-  
6 erential treatment under paragraph (5) are  
7 not included in an annual aggregation  
8 under clause (i) unless the producer or en-  
9 tity controlling production elects, at the  
10 time the annual aggregation calculation is  
11 made, to include such entries in such ag-  
12 gregation.

13 “(III) Entries of apparel articles that  
14 receive preferential treatment under any  
15 provision of law other than this subsection  
16 or are subject to the ‘General’ column 1  
17 rate of duty under the HTS are not in-  
18 cluded in an annual aggregation under  
19 clause (i) unless the producer or entity  
20 controlling production elects, at the time  
21 the annual aggregation calculation is  
22 made, to include such entries in such ag-  
23 gregation.

24 “(E) DEFINITIONS.—In this paragraph:

1 “(i) APPLICABLE PERCENTAGE.—The  
2 term “applicable percentage” means—

3 “(I) 50 percent or more during  
4 the initial applicable 1-year period,  
5 the second applicable 1-year period,  
6 and the third applicable 1-year period;

7 “(II) 55 percent or more during  
8 the fourth applicable 1-year period;  
9 and

10 “(III) 60 percent or more during  
11 the fifth applicable 1-year period.

12 “(ii) FOREIGN MATERIAL.—The term  
13 ‘foreign material’ means a material pro-  
14 duced in a country other than Haiti or any  
15 country described in subparagraph (C).

16 “(F) DEVELOPMENT OF PROCEDURE TO  
17 ENSURE COMPLIANCE.—

18 “(i) IN GENERAL.—The Bureau of  
19 Customs and Border Protection of the De-  
20 partment of Homeland Security shall de-  
21 velop and implement methods and proce-  
22 dures to ensure ongoing compliance with  
23 the requirements set forth in subpara-  
24 graphs (B) and (D).

1                   “(ii) NONCOMPLIANCE.—If the Bu-  
2                   reau of Customs and Border Protection  
3                   finds that a producer or an entity control-  
4                   ling production has not satisfied such re-  
5                   quirements in any applicable 1-year period,  
6                   then apparel articles described in subpara-  
7                   graph (B) of that producer or entity shall  
8                   be ineligible for preferential treatment  
9                   under paragraph (1) during any suc-  
10                  ceeding applicable 1-year period until—

11                   “(I) the cost or value of mate-  
12                   rials under subclause (I) of subpara-  
13                   graph (B)(i), plus

14                   “(II) the direct costs of proc-  
15                   essing operations under subclause (II)  
16                   of subparagraph (B)(i),

17                  of that producer or entity controlling pro-  
18                  duction, is not less than the applicable per-  
19                  centage under subparagraph (E)(i), plus  
20                  10 percent, of the aggregate declared cus-  
21                  toms value of all apparel articles of that  
22                  producer or entity controlling production  
23                  that are wholly assembled, or are knit-to-  
24                  shape, in Haiti and are entered during the  
25                  preceding applicable 1-year period.

1                   “(iii) RETROACTIVE APPLICATION OF  
2                   DUTY-FREE TREATMENT.—If—

3                   “(I) a producer or an entity con-  
4                   trolling production is ineligible for  
5                   preferential treatment under para-  
6                   graph (1) in an applicable 1-year pe-  
7                   riod because that producer or entity  
8                   controlling production did not satisfy  
9                   the requirements of subparagraph (B)  
10                  or (D), and

11                  “(II) that producer or entity con-  
12                  trolling production satisfies the re-  
13                  quirements of clause (ii) of this sub-  
14                  paragraph in that applicable 1-year  
15                  period,

16                  then, notwithstanding section 514 of the  
17                  Tariff Act of 1930 (19 U.S.C. 1514) or  
18                  any other provision of law, upon proper re-  
19                  quest filed with the Bureau of Customs  
20                  and Border Protection before the 90th day  
21                  after the Bureau of Customs and Border  
22                  Protection determines that subclause (II)  
23                  applies, the entry of any articles—

24                  “(aa) that was made during that  
25                  applicable 1-year period, and

1                   “(bb) with respect to which there  
2                   would have been preferential treat-  
3                   ment under paragraph (1) if the pro-  
4                   ducer or entity controlling production  
5                   had satisfied the requirements in sub-  
6                   paragraph (B) or (D) (as the case  
7                   may be),  
8                   shall be liquidated or reliquidated as  
9                   though such preferential treatment under  
10                  paragraph (1) applied to such entry.

11                  “(G) FABRICS NOT AVAILABLE IN COM-  
12                  MERCIAL QUANTITIES.—

13                   “(i) IN GENERAL.—For purposes of  
14                   determining the applicable percentage  
15                   under subparagraph (B) or (D), there may  
16                   be included in that percentage—

17                   “(I) the cost of fabrics or yarns  
18                   to the extent that apparel articles of  
19                   such fabrics or yarns would be eligible  
20                   for preferential treatment, without re-  
21                   gard to the source of the fabrics or  
22                   yarns, under Annex 401 of the  
23                   NAFTA; and

24                   “(II) the cost of fabrics or yarns  
25                   that are designated as not being avail-

1                   able in commercial quantities for pur-  
2                   poses of—

3                   “*(aa)*   section  
4                   213(b)(2)(A)(v) of this Act,

5                   “*(bb)* section 112(b)(5) of  
6                   the African Growth and Oppor-  
7                   tunity Act,

8                   “*(cc)*   section  
9                   204(b)(3)(B)(i)(III) or (ii) of the  
10                  Andean Trade Preference Act, or

11                  “*(dd)* any other provision,  
12                  relating to determining whether a  
13                  textile or apparel article is an  
14                  originating good eligible for pref-  
15                  erential treatment, of a law that  
16                  implements a free trade agree-  
17                  ment that enters into force under  
18                  the Bipartisan Trade Promotion  
19                  Authority Act of 2002,

20                  without regard to the source of the  
21                  fabrics or yarns.

22                  “(ii) REMOVAL OF DESIGNATION OF  
23                  FABRICS OR YARNS NOT AVAILABLE IN  
24                  COMMERCIAL QUANTITIES.—If the Presi-  
25                  dent determines that—

1                   “(I) any fabric or yarn described  
2                   in clause (i)(I) was determined to be  
3                   eligible for preferential treatment, or  
4                   “(II) any fabric or yarn described  
5                   in clause (i)(II) was designated as not  
6                   being available in commercial quan-  
7                   tities,  
8                   on the basis of fraud, the President is au-  
9                   thorized to remove the eligibility or des-  
10                  ignation (as the case may be) of that fab-  
11                  ric or yarn with respect to articles entered  
12                  after such removal.

13                  “(3) QUANTITATIVE LIMITATIONS.—The pref-  
14                  erential treatment described in paragraph (1) shall  
15                  be extended, during each of the applicable 1-year pe-  
16                  riods set forth in the following table, to not more  
17                  than the corresponding percentage of the aggregate  
18                  square meter equivalents of all apparel articles im-  
19                  ported into the United States in the most recent 12-  
20                  month period for which data are available:

<b>“During the:</b>	<b>the corresponding percent- age is:</b>
“initial applicable 1-year period .....	1 percent.
“second applicable 1-year period .....	1.25 percent.
“third applicable 1-year period .....	1.5 percent.
“fourth applicable 1-year period .....	1.75 percent.
“fifth applicable 1-year period .....	2 percent.

1 No preferential treatment shall be provided under  
2 paragraph (1) after the last day of the fifth applica-  
3 ble 1-year period.

4 “(4) SPECIAL RULE FOR WOVEN APPAREL.—In  
5 the case of apparel articles classifiable under chapter  
6 62 of the HTS (other than articles classifiable under  
7 subheading 6212.10 of the HTS), as in effect on the  
8 date of the enactment of the Haitian Hemispheric  
9 Opportunity through Partnership Encouragement  
10 Act of 2006, that do not qualify for preferential  
11 treatment under paragraph (1) because they do not  
12 meet the percentage requirements under paragraph  
13 (2)(B) or (2)(D), the preferential treatment under  
14 paragraph (1)—

15 “(A) shall be extended, in addition to the  
16 quantities permitted under paragraph (3) to—

17 “(i) not more than 50,000,000 square  
18 meter equivalents of such apparel articles  
19 for the initial applicable 1-year period;

20 “(ii) not more than 50,000,000  
21 square meter equivalents of such apparel  
22 articles for the second applicable 1-year pe-  
23 riod; and

1                   “(iii) not more than 33,500,000  
2                   square meter equivalents for the third ap-  
3                   plicable 1-year period; and

4                   “(B) may not be extended to such apparel  
5                   articles after the last day of the third applicable  
6                   1-year period.

7                   “(5) SPECIAL RULE FOR BRASSIERES.—The  
8                   preferential treatment under paragraph (1) shall,  
9                   subject to the limitations under paragraph (3), be  
10                  extended to any article classifiable under heading  
11                  6212.10 of the HTS, if the article is both cut and  
12                  sewn or otherwise assembled in Haiti or the United  
13                  States, or both, without regard to the source of the  
14                  fabric or components from which the article is made,  
15                  and if Haiti has met the requirements of subsections  
16                  (d) and (e).

17                  “(c) SPECIAL RULE FOR CERTAIN WIRE HARNESS  
18                  AUTOMOTIVE COMPONENTS.—

19                  (1) IN GENERAL.—Any wire harness automotive  
20                  component that is the product or manufacture of  
21                  Haiti and is imported directly from Haiti into the  
22                  customs territory of the United States shall enter  
23                  the United States free of duty, during the 5-year pe-  
24                  riod beginning on the date of the enactment of the  
25                  Haitian Hemispheric Opportunity through Partner-

1 ship Encouragement Act of 2006, if Haiti has met  
2 the requirements of subsection (d) and if the sum  
3 of—

4 “(A) the cost or value of the materials pro-  
5 duced in Haiti or one or more countries de-  
6 scribed in subsection (b)(2)(C), or any combina-  
7 tion thereof, plus

8 “(B) the direct costs of processing oper-  
9 ations (as defined in section 213(a)(3)) per-  
10 formed in Haiti or the United States, or both,  
11 is not less than 50 percent of the declared customs  
12 value of such wire harness automotive component.

13 “(2) WIRE HARNESS AUTOMOTIVE COMPO-  
14 NENT.—For purposes of this subsection, the term  
15 “wire harness automotive component” means any ar-  
16 ticle provided for in subheading 8544.30.00 of the  
17 HTS, as in effect on the date of the enactment of  
18 the Haitian Hemispheric Opportunity through Part-  
19 nership Encouragement Act of 2006.

20 “(d) ELIGIBILITY REQUIREMENTS.—

21 “(1) IN GENERAL.—Haiti shall be eligible for  
22 preferential treatment under this section if the  
23 President determines and certifies to Congress that  
24 Haiti—

1           “(A) has established, or is making con-  
2           tinual progress toward establishing—

3                   “(i) a market-based economy that pro-  
4                   tects private property rights, incorporates  
5                   an open rules-based trading system, and  
6                   minimizes government interference in the  
7                   economy through measures such as price  
8                   controls, subsidies, and government owner-  
9                   ship of economic assets;

10                   “(ii) the rule of law, political plu-  
11                   ralism, and the right to due process, a fair  
12                   trial, and equal protection under the law;

13                   “(iii) the elimination of barriers to  
14                   United States trade and investment, in-  
15                   cluding by—

16                           “(I) the provision of national  
17                           treatment and measures to create an  
18                           environment conducive to domestic  
19                           and foreign investment;

20                           “(II) the protection of intellectual  
21                           property; and

22                           “(III) the resolution of bilateral  
23                           trade and investment disputes;

24                           “(iv) economic policies to reduce pov-  
25                           erty, increase the availability of health care

1 and educational opportunities, expand  
2 physical infrastructure, promote the devel-  
3 opment of private enterprise, and encour-  
4 age the formation of capital markets  
5 through microcredit or other programs;

6 “(v) a system to combat corruption  
7 and bribery, such as signing and imple-  
8 menting the Convention on Combating  
9 Bribery of Foreign Public Officials in  
10 International Business Transactions; and

11 “(vi) protection of internationally rec-  
12 ognized worker rights, including the right  
13 of association, the right to organize and  
14 bargain collectively, a prohibition on the  
15 use of any form of forced or compulsory  
16 labor, a minimum age for the employment  
17 of children, and acceptable conditions of  
18 work with respect to minimum wages,  
19 hours of work, and occupational safety and  
20 health;

21 “(B) does not engage in activities that un-  
22 dermine United States national security or for-  
23 eign policy interests; and

24 “(C) does not engage in gross violations of  
25 internationally recognized human rights or pro-

1           vide support for acts of international terrorism  
2           and cooperates in international efforts to elimi-  
3           nate human rights violations and terrorist ac-  
4           tivities.

5           “(2) TIME LIMIT FOR DETERMINATION.—The  
6           President shall determine whether Haiti meets the  
7           requirements of paragraph (1) not later than 90  
8           days after the date of the enactment of the Haitian  
9           Hemispheric Opportunity through Partnership En-  
10          couragement Act of 2006.

11          “(3) CONTINUING COMPLIANCE.—If the Presi-  
12          dent determines that Haiti is not making continual  
13          progress in meeting the requirements described in  
14          paragraph (1)(A), the President shall terminate the  
15          preferential treatment under this section.

16          “(e) CONDITIONS REGARDING ENFORCEMENT OF  
17          CIRCUMVENTION.—

18          “(1) IN GENERAL.—The preferential treatment  
19          under subsection (b)(1) shall not apply unless the  
20          President certifies to Congress that Haiti is meeting  
21          the following conditions:

22                  “(A) Haiti has adopted an effective visa  
23                  system, domestic laws, and enforcement proce-  
24                  dures applicable to articles described in sub-  
25                  section (b) to prevent unlawful transshipment

1 of the articles and the use of counterfeit docu-  
2 ments relating to the importation of the articles  
3 into the United States.

4 “(B) Haiti has enacted legislation or pro-  
5 mulgated regulations that would permit the Bu-  
6 reau of Customs and Border Protection ver-  
7 ification teams to have the access necessary to  
8 investigate thoroughly allegations of trans-  
9 shipment through such country.

10 “(C) Haiti agrees to report, on a timely  
11 basis, at the request of the Bureau of Customs  
12 and Border Protection, on the total exports  
13 from and imports into that country of articles  
14 described in subsection (b), consistent with the  
15 manner in which the records are kept by Haiti.

16 “(D) Haiti agrees to cooperate fully with  
17 the United States to address and take action  
18 necessary to prevent circumvention as provided  
19 in Article 5 of the Agreement on Textiles and  
20 Clothing.

21 “(E) Haiti agrees to require all producers  
22 and exporters of articles described in subsection  
23 (b) in that country to maintain complete  
24 records of the production and the export of  
25 such articles, including materials used in the

1 production, for at least 5 years after the pro-  
2 duction or export (as the case may be).

3 “(F) Haiti agrees to report, on a timely  
4 basis, at the request of the Bureau of Customs  
5 and Border Protection, documentation estab-  
6 lishing the country of origin of articles de-  
7 scribed in subsection (b) as used by that coun-  
8 try in implementing an effective visa system.

9 “(2) DEFINITION OF TRANSSHIPMENT.—Trans-  
10 shipment within the meaning of this subsection has  
11 occurred when preferential treatment for a textile or  
12 apparel article under this section has been claimed  
13 on the basis of material false information concerning  
14 the country of origin, manufacture, processing, or  
15 assembly of the article or any of its components. For  
16 purposes of this paragraph, false information is ma-  
17 terial if disclosure of the true information would  
18 mean or would have meant that the article is or was  
19 ineligible for preferential treatment under this sec-  
20 tion.

21 “(f) REGULATIONS.—The President shall issue regu-  
22 lations to carry out this section not later than 180 days  
23 after the date of the enactment of the Haitian Hemi-  
24 spheric Opportunity through Partnership Encouragement  
25 Act of 2006. The President shall consult with the Com-

1 mittee on Ways and Means of the House of Representa-  
2 tives and the Committee on Finance of the Senate in pre-  
3 paring such regulations.”.

4 **SEC. 303. ITC STUDY.**

5       The International Trade Commission shall, not later  
6 than 18 months after the date of the enactment of this  
7 Act, submit a report to Congress on the effects of the  
8 amendments made by this Act on the trade markets and  
9 industries, involving textile and apparel articles, of Haiti,  
10 the countries described in clauses (ii) and (iii) of section  
11 213A(b)(2)(C) of the Caribbean Basin Economic Recovery  
12 Act (as added by section 302 of this Act), and the United  
13 States.

14 **SEC. 304. SENSE OF CONGRESS ON INTERPRETATION OF**  
15                   **TEXTILE AND APPAREL PROVISIONS FOR**  
16                   **HAITI.**

17       It is the sense of the Congress that the executive  
18 branch, particularly the Committee for the Implementa-  
19 tion of Textile Agreements (CITA), the Bureau of Cus-  
20 toms and Border Protection of the Department of Home-  
21 land Security, and the Department of Commerce, should  
22 interpret, implement, and enforce the provisions of section  
23 213A(b) of the Caribbean Basin Economic Recovery Act,  
24 as added by section 302 of this Act, relating to pref-  
25 erential treatment of textile and apparel articles, broadly

1 in order to expand trade by maximizing opportunities for  
2 imports of such articles from Haiti.

3 **SEC. 305. TECHNICAL AMENDMENTS.**

4 (a) CBI.—Section 213(b)(2)(A)(v) of the Caribbean  
5 Basin Economic Recovery Act (19 U.S.C.  
6 2703(b)(2)(A)(v)) is amended by adding at the end the  
7 following new subclause:

8 “(III) If the President determines  
9 that any fabric or yarn was determined to  
10 be eligible for preferential treatment under  
11 subclause (I) on the basis of fraud, the  
12 President is authorized to remove that des-  
13 ignation from that fabric or yarn with re-  
14 spect to articles entered after such re-  
15 moval.”.

16 (b) ATPA.—Section 204(b)(3)(B) of the Andean  
17 Trade Preference Act (19 U.S.C. 3202(b)(3)(B)) is  
18 amended by adding at the end the following new clause:

19 “(viii) REMOVAL OF DESIGNATION OF  
20 FABRICS OR YARNS NOT AVAILABLE IN  
21 COMMERCIAL QUANTITIES.—If the Presi-  
22 dent determines that any fabric or yarn  
23 was determined to be eligible for pref-  
24 erential treatment under clause (i)(III) or  
25 (ii) on the basis of fraud, the President is

1 authorized to remove that designation from  
2 that fabric or yarn with respect to articles  
3 entered after such removal.”.

4 **SEC. 306. EFFECTIVE DATE.**

5 This title and the amendments made by this title  
6 apply to articles entered, or withdrawn from warehouse  
7 for consumption, on or after the 15th day after the date  
8 of the enactment of this Act.